



**City of Santa Barbara**  
Police Department

**Memorandum**

**DATE:** March 24, 2011

**TO:** Fire and Police Commission

**FROM:** Holly Perea, Police Technician

**SUBJECT:** Jacinto Chavez - Appeal of Denial of Taxi Driver Permit Renewal Application

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On November 9, 2010, Jacinto Chavez, a taxicab driver since October 2007, submitted a Renewal Application for a taxicab driver permit to the Santa Barbara Police Department. On the Arrest History section of the renewal application, which requires applicants to list all arrests and citations, the applicant listed "None." This answer was verbally verified with the applicant in person at the time the application was submitted to the Police Technician's office. However, a review of the applicant's driving record revealed that Mr. Chavez was convicted of the misdemeanor offense of **23103 VC Reckless Driving** in October 2009.

Based on this discovery, Mr. Chavez's renewal permit application was denied per two subsections of **Santa Barbara Municipal Code (SBMC) §5.29.190 Denial** "A public vehicle driver's permit shall not be issued to any person for whom any of the following is applicable:

- (F) "Has been convicted for driving a vehicle recklessly within the two (2) years immediately preceding application for a permit or renewal"; and
- (K) "Has falsified or omitted material and relevant facts on the public vehicle driver's permit application."

It should be noted that the above section does not use the discretionary term "may not be issued," but instead states that a "permit shall not be issued," thereby requiring the Chief of Police to deny the permit under either of the above-listed circumstances.

Mr. Chavez was sent written notice of this denial on January 25, 2011. On February 9, 2011, Mr. Chavez filed a letter of appeal with the City Clerk's office per **SBMC §5.29.250 Appeal Procedure**. The appeal is based on the grounds that the "DUI was a year and a half ago." Mr. Chavez also states that he needs the job to provide for his family. A copy of Mr. Chavez's appeal letter is attached to this report.

Per **SBMC §5.29.250(A)**:

3. Upon filing an appeal, the party to the action shall be entitled to a hearing by the Board of Fire and Police Commissioners at the next regular meeting.
4. The appellant or appellant's representative shall have the right to present his or her case in person.

5. The Board of Fire and Police Commissioners shall consider the case record as well as any statements offered by interested parties. The hearing will be conducted according to administrative rules relating to evidence and witnesses as adopted by the Commission.
6. If the Board of Fire and Police Commissioners refuses to issue, amend or restore a license or an owner's permit, the party to the action or such party's agent shall not file a new application within three hundred sixty five (365) days from the date of final action by the Board of Fire and Police Commissioners.  
(See Attachment 3: SBMC Section 5.29.250.)

**RECOMMENDATION:**

That the Fire and Police Commission uphold the Police Department's decision to deny the renewal of Mr. Chavez's taxicab driver permit.

**ATTACHMENTS:**

1. California Vehicle Code §23103
2. Santa Barbara Municipal Code §5.29.190 Denial
3. Appeal letter filed by Mr. Chavez

#### 4. (ATTACHMENT 1)

### **V C Section 23103 Reckless Driving**

#### **Reckless Driving**

23103. (a) A person who drives a vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(b) A person who drives a vehicle in an offstreet parking facility, as defined in subdivision (c) of Section 12500, in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

(c) Except as otherwise provided in Section 40008, persons( ) convicted of the offense of reckless driving shall be punished by imprisonment in a county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars (\$145) nor more than one thousand dollars (\$1,000), or by both that fine and imprisonment, except as provided in Section 23104 or 23105.

Amended Sec. 19, Ch. 739, Stats. 2001. Effective January 1, 2002.

Amended Sec. 16, Ch. 682, Stats. 2007. Effective January 1, 2008.

Amended Sec. 2, Ch.685, Stats. 2010. Effective January 1, 2011.

The 2010 amendment added the italicized material, and at the point(s) indicated, deleted the following " Persons ".

(ATTACHMENT 2)

**5.29.190 Denial.**

A public vehicle driver's permit shall not be issued to any person for whom any of the following is applicable:

- A. Has been a licensed driver for less than 6 months in the United States.
- B. Does not possess a valid Class C driver's license issued by the State of California.
- C. Is less than twenty-one (21) years of age, unless the applicant possesses a valid Class B driver's license issued by the State of California and is 18 years or older.
- D. Is currently required to register pursuant to Section 290 of the California Penal Code or is required to register in another state or country as a sex offender in a manner comparable to Penal Code Section 290.
- E. Has been convicted of a crime involving moral turpitude, narcotics or dangerous drugs, unless a period of not less than three (3) years shall have elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later.
- F. Has been convicted for driving a vehicle recklessly within the two (2) years immediately preceding application for a permit or renewal.
- G. Has been convicted of operating a vehicle while under the influence of alcohol or drugs two (2) or more times within seven (7) years immediately preceding the application for a permit or a renewal application, or one (1) time within one (1) year immediately preceding application for a permit or renewal.
- H. Has a history of chronic alcohol-related criminal convictions, as evidenced by three (3) or more public intoxication convictions within two (2) years immediately preceding an application for or renewal of permit.
- I. Has two (2) or more moving violation convictions within one (1) year immediately preceding an application for a permit, or three (3) moving violation convictions within one (1) year, or four (4) moving violation convictions within two (2) years for renewal. "Moving violation" conviction shall mean those violations set forth in State Vehicle Code Section 12810.
- J. Has been convicted of a felony or misdemeanor hit and run.
- K. Has falsified or omitted material and relevant facts on the public vehicle driver's permit application.
- L. Has failed to comply with all applicable provisions of Section 5.29.175 of this Chapter. (Ord. 5360, 2005; Ord. 4974, 1996; Ord. 4277, 1984; Ord. 4206, 1983.)